

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Annmarie Bishop,

Plaintiff

v.

Mountain View Hospital,

Defendant

Case No.: 2:19-cv-02113-JAD-NJK

**Order Adopting Report and
Recommendation, Dismissing Action,
and Closing Case**

[ECF No. 5]

On December 11, 2019, the court found that plaintiff Annmarie Bishop's application to proceed *in forma pauperis* was incomplete and gave her until January 21, 2020, to file a new application or pay the full \$400 filing fee.¹ Bishop was warned that her failure to do so could result in the dismissal of this case.² Bishop did not pay the fee or file a new application, and the magistrate judge now recommends that I dismiss her case.³ The deadline for objections to that report and recommendation passed without any filing from Bishop, and "no review is required of a magistrate judge's report and recommendation unless objections are filed."⁴

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.⁵ A court may dismiss an action based on a party's failure to prosecute an action, failure to obey a

¹ ECF No. 3.

² *Id.* at 4.

³ *See* ECF No. 5.

⁴ *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003); *see also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

⁵ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 court order, or failure to comply with local rules.⁶ In determining whether to dismiss an action
 2 on one of these grounds, the court must consider: (1) the public's interest in expeditious
 3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
 4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
 5 availability of less drastic alternatives.⁷

6 The first two factors, the public's interest in expeditiously resolving this litigation and the
 7 court's interest in managing its docket, weigh in favor of dismissal of the plaintiff's claims. The
 8 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 9 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 10 ordered by the court or prosecuting an action.⁸ A court's warning to a party that its failure to
 11 obey the court's order will result in dismissal satisfies the fifth factor's "consideration of
 12 alternatives" requirement,⁹ and that warning was given here.¹⁰ The fourth factor—the public
 13 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
 14 favoring dismissal.

15 Accordingly, with good cause appearing and no reason to delay, IT IS HEREBY
 16 ORDERED that the Report and Recommendation [ECF No. 5] is **ADOPTED**, and **this case is**
 17 **DISMISSED** for failure to pay the filing fee or a new IFP application as directed by the court.

18
 19 ⁶ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
 20 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to
 21 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
 22 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
 23 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

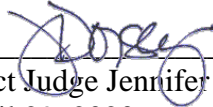
24 ⁷ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
 25 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

26 ⁸ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

27 ⁹ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

28 ¹⁰ ECF No. 3.

The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.



U.S. District Judge Jennifer A. Dorsey
Dated: April 29, 2020